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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,814	01/26/2004	Dale Roush	1041-001	6879
<div>60533 7590 07/24/2007</div> <div>TOLER SCHAFFER, LLP 8500 BLUFFSTONE COVE SUITE A201 AUSTIN, TX 78759</div>				
			EXAMINER	
			HALL, ARTHUR O	
			ART UNIT	PAPER NUMBER
			3709	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

ED

Office Action Summary

Application No.

10/764,814

Applicant(s)

ROUSH, DALE

Examiner

Arthur O. Hall

Art Unit

3709

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/21/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 6/21/2005 has been acknowledged by the examiner.

Specification

The disclosure is objected to because of the following informalities: the method is labeled 70 in Fig. 4, but is not labeled in paragraph 0030.

Appropriate correction is required.

Claim Objections

Claims 1 and 13 are objected to because of the following informalities: the claims recite "A computer-implemented method" in the preamble; but, this language infers that the method is implemented solely by a computer via a computer readable medium. In which case, the claim is then directed to computer readable medium having program steps stored thereon to be implemented or carried out by the processor of a computer under the command of a program. Examiner suggests that applicant recite claims 1 and 13 as "A method having steps implemented or carried out by a processor" in order to avoid clarity issues with respect to computer readable medium. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2-6, 10, 12-14 and 17-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Lappington et al. (US Patent 5,734,413; hereinafter Lappington). Figures are described with reference characters where necessary for clarity.

Regarding claims 1 and 13,

a computer-implemented method of providing interactive entertainment associated with a broadcast sports game or an event related game (column 8, lines 4-39, Lappington), comprises:

receiving event data associated with a media broadcast or broadcast sports game at a computer (column 8, line 62 to column 9, line 9, column 19, lines 47-64 and Figs. 1, 10 and 11, 32, Lappington; event data or transactions that are processor compiled from a script including game data are broadcasted and received at a handheld device);

generating a printable game set or game set (column 16, lines 16-64, Lappington; a printable game set or game data is generated via processing circuitry), the printable game set or game set including at least one game card or a plurality of game cards and a set of trade tickets or a plurality of trade tickets (column 15, lines 56-67, column 22, lines 13-32 and Fig. 4, 20, Lappington; an Insertion Card for each authorized user that includes game data and registers that include data corresponding to each user's trade ticket information for the game are provided via the handheld), the at least one game card or each game card of the plurality of game cards including a list of game events or a unique set of game events associated with the media broadcast or broadcast sports game (column 10, lines 13-17, Lappington; all transaction data that is a cumulative list of game events provided to the handheld via the Insertion card), each trade ticket of the set of trade tickets or plurality of trade tickets identifying or including a unique game event or game event (column 22, lines 13-32, Lappington; the registers

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provided information regarding a football game event), at least one of the plurality of trade tickets including a game win event associated with a team associated with the broadcast sports game (column 22, lines 13-32, Lappington; determination of which team won a football game event or other type of event is made through interactive messages with the user); and

providing the printable game set or game set in an electronic format configured for printing by a user (column 9, line 54 to column 10, line 5 and column 17, line 36-51, Lappington; an object file that is compiled from a symbolic file including interactive game data is provided to a handheld computer in machine code readable by printer devices).

Regarding claims 2 and 14, the media broadcast or broadcast sports game is a sports event or football game (column 10, line 63 to column 11, line 10 and column 11, lines 25-33, Lappington).

Regarding claim 3, the set of trade tickets includes two trade tickets each indicating a win event for a different team (column 22, lines 13-32, Lappington; two different teams are disclosed in which either is capable of winning the event creating the possibility of data for two tickets to be generated from the registers).

Regarding claims 4 and 17, inserting an advertisement in the printable game set is disclosed (column 12, lines 11-16, Lappington; advertisers provide advertising scripts as part of the printable game set data).

Regarding claims 5 and 18, inserting an advertisement on the at least one game card or each of the plurality of game cards is disclosed (column 14, lines 57-67 and column 15, lines 56-67, Lappington; advertisers provide incentive advertisements via script data that is provided to users on the handheld via each Insertion Card).

Regarding claim 6, retrieving an advertisement from an advertiser system is disclosed (column 14, lines 57-67, Lappington; advertisements are inherently retrieved from the advertiser in order to be provided to the remote user).

Regarding claims 10 and 19, associating a unique number with the game set or printable game set is disclosed (column 12, lines 17-53, Lappington).

Regarding claim 12, inserting a coupon in the printable game set is disclosed (column 4, lines 45-62, Lappington; a coupon or consumer promotional information is provided as part of the script or game set data to the user).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 7-9, 11, 15-16 and 20-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lappington in view of Libby et al. (US Patent 6,193,605; hereinafter Libby). Figures are described with reference characters where necessary for clarity.

Regarding claim 20,

Lappington substantially teaches features of the claimed invention as described above.

However, Lappington does not substantially teach printing the game set and distributing each game card and trade tickets as claimed. Therefore, attention is directed to Libby, which teaches

printing the game set (column 6, lines 17-27 and column 7, lines 13-19, Libby);
and

distributing one game card of the plurality of game cards and a subset of trade tickets of the set of trade tickets to one of a plurality of players (column 7, lines 13-19 and Fig. 3, 66, Libby; a game card and trade tickets are provided to a player after player selection data, player ID information and time stamp data are imprinted thereon).

Libby suggests that a device that makes on-line gaming more accessible to participants who do not play on a daily basis as well as those who play everyday will eliminate the difficulty that gaming entities have in increasing the number of interested players (column 1, lines 18-38 and column 1, line 61 to column 2, line 4, Libby).

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Thus, it would have been obvious to one having ordinary skill in the art at the time the applicant's invention was made to modify Lappington in view of the teachings of Libby for the purpose of providing the gaming method provide in the interactive system of Lappington having printable game data features including game cards and trade ticket data that are interchangeable with or upgradeable to the card and trade ticket printing and distribution features of Libby in order to increase the number of all interested players in gaming by making on-line gaming more accessible to regular and non-regular participants.

Regarding claims 22-23 and 25-26, Lappington teaches

Regarding claim 22, scoring each game card of the plurality of game cards upon completion of the media event is disclosed (column 9, lines 10-27 and column 11, lines 43-60, Lappington).

Regarding claim 23, distributing a prize to a player in response to scoring each game card is disclosed (column 11, lines 34-42, column 11, line 61 to column 12, line 4 and column 15, lines 1-7, Lappington; awards or prizes are provided to the player based on a scoring).

Regarding claim 25, distributing a prize to a player holding a trade ticket indicating a game winning event upon completion of the media event is disclosed (column 22, lines 33-61, Lappington; awards or prizes are provided to the player based on when the game event ends).

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Regarding claim 26, displaying the media event is disclosed (column 16, line 66 to column 17, line 17, Lappington; the event picture data corresponding to the media event is display to the player on a television display).

The claimed features of claims 7-9, 11, 15-16, 21 and 24 do not appear to be disclosed in Lappington; therefore, attention is directed to Libby, which teaches

Regarding claim 21, a player of the plurality of players marks a game card in response to the occurrence of game events included in the distinct list of game events (column 6, lines 3-13 and lines 49-59, Libby; the user enters their identification data that is associated with the player selection data for the game that is printed on the game card or ticket).

Regarding claims 7 and 15, acquiring user information from or associated with the user is disclosed (column 6, lines 49-59, Libby).

Regarding claims 8 and 16, the user information or information associated with the user includes user location information or location information (column 6, lines 59-67, Libby; time and day stamp information is associated with the user for determining when a user received a card or ticket and it would have been obvious to one having ordinary skill in the art at the time of invention to include information regarding the location of the machine or device from which the user received the card or ticket).

Regarding claim 9, the printable game set is generated using the user information (column 7, lines 1-13, Libby).

Regarding claim 11, the unique number is associated with a lottery (column 6, lines 59-67 and column 7, line 40 to column 8, line 5, Libby; the unique player ID is associated with the player selection data used to determine the winning lottery ticket).

Regarding claim 24, a player exchanges a trade ticket with a second player in response to the occurrence of a game event listed on the trade ticket (column 7, line 40 to column 8, line 5, Libby; players win when winning numbers match the player selection data of their lottery ticket or card and it would have been obvious to one having ordinary skill in the art at the time of invention to exchange trade tickets between players in order to determine qualification for a grand prize among participants so as to increase player enthusiasm by increasing the odds that other players will win).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

C US-4,764,666, Bergeron

D US-5,108,115, Berman et al.

E US-5,083,271, Thacher et al.

F US-6,753,883 B2, Schena et al.

G US-5,897,623, Fein et al.

H US-5,647,795, Stanton

I US-5,518,239, Johnston

J US-2003/0050109 A1, Caro et al.

K US-4,781,377, McVean et al.


L US-5,845,261, McAbian

M US-2003/0060262 A1, Yeend.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur O. Hall whose telephone number is (571) 270-1814. The examiner can normally be reached on Mon - Fri, 8:00am - 5:00 pm, Alt Fri, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Jackson can be reached on (571) 272-4697. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AH 
7/9/2007

GARY JACKSON
SUPERVISORY PATENT EXAMINER

